

REMARKS

By this amendment, claim 1 is revised, claims 2 and 3 are canceled, and new claims 11 and 12 are added to place this application in immediate condition for allowance. Currently, claims 1-12 are before the Examiner for consideration on their merits.

First, the feature of claim 2 with respect to the absence of Na is incorporated into claim 1. The language of "contains essentially no Na" is also found in the Abstract and page 6, the last fourth line to the bottom of page 7. In addition, R and T are further defined in claim 1 according to the limitations found in original claim 3. The feature regarding the powder being produced from an amorphous powder derives its support from page 11, lines 7-10. New claim 11 is supported by page 11, lines 11-17 and Example 1. Example 2 provides support for new claim 12.

In light of the changes to claim 1, Applicants submit that the applied prior art does not establish a *prima facie* case of anticipation or obviousness and the rejection must be withdrawn. The traverse of the rejection is set out below under the headings of the Invention and Arguments.

INVENTION

The perovskite-type composite oxide in accordance with the present invention, hereinafter inventive RTO_3 , has an NO adsorption domain in the range of 200-450 °C and the NO adsorbed to the inventive RTO_3 makes carbon black easily combustible as

seen from increasing CO₂ concentration, see the third paragraph of page 16 of the specification.

Also, Figure 3 shows that the inventive RTO₃ of Examples 1 and 2 makes carbon black combustile at lower temperatures of approximately 300 °C, which is lower than Comparative Example 1 using a Pt catalyst, see Table 2.

The inventive RTO₃ is able to be obtained by heating treating a powdery amorphous precursor substance containing the elements recited in claim 1 in stoichiometric ratios to produce the perovskite-type composite oxide, wherein in the production for the precursor, entrainment of Na should be avoided. This is because Na entrainment in the RTO₃ causes a rise in the ignition temperature as explained on page 20, lines 9-12.

ARGUMENTS

In the rejection, the Examiner cites JP 1142208 to Ogura et al. (Ogura), JP 1307452 to Matsumoto et al. (Matsumoto) and JP 184929 to Abe et al. (Abe) to assert that claim 1 is anticipated. The Examiner also admits that none of the references teaches the claimed NO adsorption domain range but alleges that since the three references teach the claimed composition, the limitation regarding the NO adsorption domain is inherent.

Applicants submit that none of Ogura, Matsumoto, and Abe teaches the invention as now claimed.

First, the catalyst is now defined as containing substantially no Na. This means that Ogura cannot be said to anticipate claim 1. Ogura teaches using NaCO_3 to precipitate hydroxides of the gradients needed to form the perovskite-type composite oxide by burning at 800 °C from the aqueous solution of their nitric compounds, see page 2, col. 4, line 9, of Ogura. As explained above, entrainment of Na means that the results of the invention cannot be obtained. Since Ogura teaches a composite oxide that would contain Na, this reference cannot be said to meet the limitations of claim 1 with respect to containing substantially no Na.

It is also argued that since Ogura teaches making the composite oxide in a different manner than that claimed, it is improper for the Examiner to conclude that the domain is inherent in Ogura. As explained in the specification, the comparison between Working Example 2 and Comparative Example 2 reveals that the composite oxides are not the same when Na is used as the precipitating agent, i.e., the ignition temperatures are not the same. Thus, for the same composition, the properties of the composite oxide cannot be assumed to be the same when the processing is different. Because of this, the Examiner does not have a basis to assume that the domain limitation is found in the Ogura composite oxide and the rejection based on Ogura is improper.

Concerning Abe and Matsumoto, and as admitted by the Examiner, neither of these references teaches the NO adsorption domain of claim 1. These references also do not teach that the composite oxide is made from an amorphous precursor material as now defined in claim 1. Applicants submit that it is error for the Examiner to assume that the NO adsorption domain exists in the temperature range of 200-450 °C as is

required by claim 1. The basis for Applicants' position in this regard is that neither Abe nor Matsumoto teaches making the composite oxide from a precursor amorphous material as recited in the claims. It is not only having the claimed composition but also the processing that results in the claimed NO adsorption domain. At most, Abe and Matsumoto teach an RTO_3 material. However, this alone is insufficient to support the inherency position. The Examiner cites nothing in either of these two references to support the inherency argument in terms of a similarity in processing. Lacking this, the inherency position is incomplete and a *prima facie* case of anticipation cannot be established by either Abe or Matsumoto.

While it is true that the claim limitations regarding the precursor powder are process related, they are still relevant in the context of determining patentability in this instance. In the Office Action, the Examiner relies on an inherency argument to support the rejection. Applicants have rebutted this argument by pointing out and claiming the fact that an amorphous precursor is used to produce the claimed NO adsorption domain. Since neither Abe nor Matsumoto teach such a method, the Examiner must either support the inherency position with some objective evidence in the face of Applicants' rebuttal or withdraw the rejections based on these two references.

The rejection based on Ogura is also traversed using the same argument made above regarding Abe and Matsumoto's failure to teach a method that would inherently form the claimed NO adsorption domain.

Lacking a basis to allege anticipation, the Examiner must either withdraw the rejections or rely on 35 U.S.C. § 103(a) to formulate a rejection. However, there is no legitimate basis to allege that any of Ogura, Matsumoto, or Abe can be modified to somehow result in the invention of claim 1. To make such an allegation is the impermissible reliance on hindsight and such a rejection could not be sustained on appeal.

New claims 11 and 12 are also patentable based on their dependence on claim 1.

New claim 11 is also separately patentable over the prior art since the Examiner has no basis to conclude that the limitation regarding Na is met. Claim 12 is also separately patentable based on the fact that none of the three prior art references teach or suggest the precursor substance.

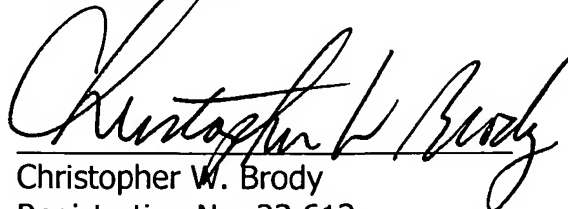
Finally, Applicants submit herewith a Terminal Disclaimer and this overcomes the double patenting rejection. A check in the amount of \$130.00 is attached to cover the cost of the petition.

To summarize, none of the prior art references establishes a *prima facie* case of anticipation because the Examiner has failed to support the inherency position, or Applicants have effectively rebutted it by showing that only a composite oxide formed from an amorphous precursor material produces the claimed NO adsorption domain. In addition, Ogura does not teach the claimed RTO_3 composition and this is a further reason to withdraw the rejection based on Ogura.

In light of the above, the Examiner is requested to examine this application and pass all pending claims onto issuance.

Applicants petition for a one month extension of time. A check in the amount of \$120.00 is submitted to cover the cost of the petition. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
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Docket No.: 12065-0038
Date: September 24, 2008